

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Brenda Yanni,

Plaintiff,

v.

FIDELITY AND GUARANTY INSURANCE
UNDERWRITERS, INC.,

Defendants.

Civil Action No.: _____

Removed from:

Superior Court of New Jersey
Law Division

Docket No.: L-2185-17
(venue transferred to Passaic County
awaiting docket number at time of Removal)

Civil Action No. _____

NOTICE OF REMOVAL

TO: Clerk, Superior Court of New Jersey
Law Division
Camden County – Civil
Hall of Justice - Suite 150
101 S. 5th Street
Camden, New Jersey 08103 and

Clerk, Superior Court of New Jersey
Law Division
Passaic County – Civil
Historic Courthouse
71 Hamilton Street
Paterson, NJ 07505

Anthony DiUlio, Esq.
Law Offices of Jonathan Wheeler, P.C.
One Penn Center, Suite 1270
1617 JFK Boulevard
Philadelphia, Pennsylvania 19103
Attorney for Plaintiff

PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §§ 1332, 1441 and 1446,
Defendant, Fidelity and Guaranty Insurance Underwriters Inc. (“Fidelity”), by its undersigned

attorneys, Finazzo Cossolini O'Leary Meola & Hager, LLC, hereby removes the above-captioned civil action, and all claims and causes of action therein, from the Superior Court of New Jersey, Camden County, Law Division, Hall of Justice, Suite 150, 101 S. Fifth Street, Camden, New Jersey, 08103, to the United States District Court for the District of New Jersey. The grounds for removal are as follows:

1. Plaintiff commenced an action in the Superior Court of New Jersey, Camden County, seeking an undisclosed amount of damages from Fidelity arising from a property insurance claim and the claimed damages to Plaintiff's property located in Passaic County, New Jersey by filing a Complaint on or about May 30, 2017. A true and complete filed copy of the Complaint and attached Exhibits is attached hereto as Exhibit "A".

2. On June 12, 2017, Corporation Service Company, Fidelity's agent for service of process, was served with a copy of the Summons and Complaint. This was the first time proper service was achieved. A true and complete copy of Notice of Service of Process is attached hereto as Exhibit "B".

3. On August 15, 2017, Fidelity filed its Answer to the Complaint, which included a Demand for a Statement of Damages from Plaintiff as there was no indication of the amount in controversy. A true and complete filed copy of Fidelity's Answer is attached hereto as Exhibit "C".

4. On August 23, 2017, Fidelity also filed a Motion to Change Venue of this matter to Passaic County, where the Plaintiff resides, where the insured property is located and where most of the relevant witnesses are located. A true and complete filed copy of the Notice of Motion in support of Fidelity's motion to change venue of this matter to the New Jersey Superior Court, Law Division, Passaic County, is attached hereto as Exhibit "D".

5. On September 15, 2017, the Honorable Deborah Silverman Katz, Assignment Judge of the New Jersey Superior Court, Camden County, entered an Order transferring the venue of the matter to the New Jersey Superior Court, Law Division, Passaic County. A true and complete filed copy of that Order is attached hereto as Exhibit “E”.

6. On August 23, 2017, Plaintiff provided the undersigned with Plaintiff’s Statement of Damages totaling \$283,953.58. A true and complete copy of Plaintiff’s Statement of Damages and corresponding cover e-mail, as received by Fidelity for the first time on August 23, 2017, is attached hereto as Exhibit “F”.

7. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Fidelity pursuant to the provisions of 28 U.S.C. § 1441, in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

8. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446 because it is filed within 30 days after receipt by Fidelity of Plaintiff’s Statement of Damages setting forth the amount of the claim for relief upon which the action or proceeding is based, which first detailed that the matter satisfied the jurisdictional amount to remove this matter to Federal Court based on diversity of citizenship.

9. According to the Complaint, Plaintiff Brenda Yanni resides at 9 Banker Road, Hewitt, which is in Passaic County, New Jersey. Accordingly, Plaintiff is a citizen of New Jersey.

10. Defendant Fidelity is a corporation with its principal place of business in Connecticut and is incorporated in the State of Connecticut. Fidelity is therefore a citizen of Connecticut.

11. Accordingly, there is complete diversity of citizenship between the parties, thereby satisfying the diversity of citizenship requirement of 28 U.S.C. § 1332.

12. From the Statement of Damages provided by Plaintiff, the damage claim in this action exceeds the sum of \$75,000, exclusive of interest and costs, thereby satisfying the amount in controversy requirement of 28 U.S.C. § 1332.

13. Fidelity will promptly serve a copy of this Notice of Removal on counsel for Plaintiff, and will file a copy of this Notice of Removal with the Clerk of the Superior Court of New Jersey, Camden County, Law Division, Hall of Justice, Suite 150, 101 S. Fifth Street, Camden, New Jersey, 08103, pursuant to 28 U.S.C. § 1446(d), and include a copy to the Clerk of the Superior Court of New Jersey, Passaic County, Law Division, Historic Courthouse, 71 Hamilton Street, Paterson, New Jersey, 07505 as the venue was being transferred.

WHEREFORE, Fidelity, under 28 U.S.C. §§ 1332, 1441 and 1446, removes this action in its entirety from the Superior Court of New Jersey, Camden County, as recently transferred to the Superior Court of New Jersey, Passaic County awaiting a docket number, to the United States District Court for the District of New Jersey.

Dated: September 20, 2017

/s/ Rachel R. Hager, Esq.

RACHEL R. HAGER, ESQ. (031311994)

FINAZZO COSSOLINI O'LEARY

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Attorneys for Defendant,

Fidelity and Guaranty Insurance

Underwriters, Inc.

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I certify that the subject matter now before this Court is not part of any other action pending in any Court or of any pending arbitration or administrative proceeding.

Dated: September 20, 2017

/s/ Rachel R. Hager, Esq.

RACHEL R. HAGER, ESQ. (031311994)

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Attorneys for Defendant,

Fidelity and Guaranty Insurance

Underwriters, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of September, 2017, I forwarded one copy of Defendant Fidelity and Guaranty Insurance Underwriters Inc.'s Notice of Removal, and attached exhibits, Fed. R. Civ. P. 7.1 Disclosure Statement and Certificate of Service, via Email and Regular Mail to the following counsel of record:

Anthony DiUlio, Esq.
Law Offices of Jonathan Wheeler, P.C.
One Penn Center, Suite 1270
1617 JFK Boulevard
Philadelphia, Pennsylvania 19103
Attorney for Plaintiff

/s/ Rachel R. Hager, Esq. _____
RACHEL R. HAGER, ESQ.